

### **REMARKS**

Assignee and the undersigned attorney thank Examiner Copier for the review of this patent application. Reconsideration of claims 58 and 60-72 of the present application is respectfully requested. New claims 73-75 were added above, and claims 58 and 60-75 are now pending in the application. Claims 67-69 and 72 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to point out and distinctly claim the subject matter which applicants regard as the invention. The Action rejected claims 58-65 and 67-72 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,418,445 to *Meyn et al.* (the “’445 Patent”). Claim 66 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the ‘445 Patent in view of U.S. Patent No. 4,059,868 to *Meyn* (the “’868 Patent”).

#### **Rejection of Claims 67-69 and 72 under 35 U.S.C. § 112, ¶2**

The Action rejected claim 67, indicating that the phrase “such as . . .” rendered the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. Claim 67 is amended above to remove the referenced phrase. Claim 68 and dependent claims 69 and 72 were rejected because of an insufficient antecedent basis for “the free end” as recited in claim 68. Claim 68 is amended above to provide the proper antecedent basis. Accordingly, the rejections of claims 67-69 and 72 under § 112, second paragraph, should be withdrawn.

#### **Rejection of Claims 58-65 and 67-72 under 35 U.S.C. § 102(b)**

The Action rejected claims 58-65 and 67-72 as being anticipated by the ‘445 Patent. Claims 58, 60-62, 67, 68, and 70 have been amended above, and claim 59 has been cancelled without prejudice.

Claims 58, 60, 61 and 70

Claim 58, as amended, recites a method for processing a slaughtered bird comprising breaking at least one tissue connection between the belly skin and the viscera of the bird by introducing a separating means into the carcass and moving the separating means in a plane substantially parallel to the plane of the belly skin of the carcass. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in the cited reference, and the identical invention must be shown in as complete detail as is contained in the claim. *See* MPEP § 2131. The '445 Patent does not disclose or teach each and every limitation of amended claim 58 at least because it fails to teach moving a separating means in a plane substantially parallel to the plane of the belly skin.

The '445 Patent teaches inserting a stretching member 21 with an enlargement 24 through a vent opening and into the body cavity of the bird (*see* col. 3, lines 55-60). The stretching of the skin is for the purpose of making a transverse cut into the belly skin without risking damage to the entrails (*see* col. 1, lines 61-67). The stretching member is moved radially outward and upward with reference to a shaft 2 (*see* col. 3, lines 23-27), whereby the enlargement is slid under the abdominal skin of the fowl so as to pull the skin upwardly and outwardly (*see* col. 3, lines 60-65) away from the underlying entrails of the bird.

The Action analogizes the stretching member 21 with enlargement 24 to the claimed separating means. However, even assuming, *arguendo*, that the stretching member is properly analogized to the recited separating means, the stretching member does not move in a plane substantially parallel to the plane of the belly skin. Rather, the stretching member moves in a plane orthogonal to the plane of the belly skin. The enlargement is inserted into the vent of the carcass and the entire stretching member 21 is then swung outwardly and upwardly to lift the skin. The stretching member never moves in a plane substantially parallel to the plane of the belly skin. Nor would it have been obvious to move the member in such a plane for to do so would thwart the entire purpose of the '445 Patent – to lift the skin away from the carcass.

Therefore, the '445 Patent fails to teach or suggest moving a separating means within the carcass in a plane substantially parallel to the plane of the belly skin, as recited in amended claim 58. Accordingly, the rejection of claim 58 should be withdrawn, and claim 58 is allowable. At least because claims 60, 61 and 70 depend from allowable claim 58, these claims are also allowable.

#### Claims 62-65 and 71

Claim 62, as amended, recites a device for processing a slaughtered bird comprising separating means for breaking tissue connections between the belly skin and the viscera that is adapted to move in a plane substantially parallel to the plane of the belly skin. Because, as explained above, the '445 Patent does not teach or suggest a separating means adapted to move in a plane substantially parallel to the plane of the belly skin, the rejection of claim 62 should be withdrawn, and claim 62 is allowable. At least because claims 63-65 and 71 depend from allowable claim 62, these claims are also allowable.

#### Claim 67

Claim 67 recites a method for inserting a substantially elongated element with a free end under the skin of the belly of a slaughtered bird which is provided with a hole in the skin, comprising:

- inserting a protection element through the hole and into the bird, wherein the protection element comprises a stop face adapted for pushing away the viscera from the hole;
- positioning the free end of the elongated element in the hole near the stop face; and
- rotating the elongated element to insert the free end of the elongated element under the skin.

The Action maintains that enlargement 24 of member 21 is both the recited "free end" and the recited "protection element." Enlargement 24 cannot be both recited structures. Rather, claim 67 makes clear that the free end and the protection element are different

structures. Claim 67 recites that the free end be positioned in the hole of the bird near the stop face of the protection element. The Action, in analogizing the enlargement 24 to both the free end and the protection element, is basically maintaining that the enlargement can be placed near itself. This is a physical impossibility. Rather, claim 67 clearly requires two structures – a protection element and a free end. The enlargement 24 cannot be both, and certainly neither it nor groove 25 is the recited protection element.

In fact, the '445 Patent does not teach a protection element at all, much less inserting a protection element into the bird as recited in claim 67. The '445 Patent teaches inserting a stretching member 21 into a hole in the bird. The lower end of stretching member 21 has an enlargement 24 that includes a horizontally extending groove 25 (*see* col. 3, lines 11-13). Neither the enlargement 24 or groove 25 are adapted for pushing away the viscera from the hole. Rather, the enlargement is adapted to do the opposite -- pull the skin away from the viscera (*see* col. 3, lines 53-65). Moreover, the groove 25 is adapted to receive a knife to make a transverse cut in the skin of the fowl (*see* col. 3, line 68 to col. 4, line 2; col. 4, lines 10-15). The '445 Patent fails to teach or suggest structure for pushing the viscera away from the hole, and thus does not teach or suggest at least the recited protection element. Accordingly, claim 67 is allowable.

#### Claims 68, 69, and 72

Claim 68 recites a device for processing a slaughtered bird, comprising:

- a substantially elongated element having a free end for insertion under the skin of the belly of the bird;
- a protection element for insertion into the bird through a hole in the skin, wherein the element comprises a stop face adapted for pushing away the viscera from the hole; and
- moving means for positioning the free end of the elongated element in the hole near the stop face and for rotating the elongated element for inserting the free end of the elongated element under the skin.

Because, as discussed above with regard to claim 67, the '445 Patent does not teach or suggest a protection element, claim 68 is also allowable, as are claims 69 and 72 which depend from allowable claim 68. The Action did not specifically address claim 69, which recites the device of claim 68 wherein the protection-element is plate-shaped. Because the '445 Patent fails to teach or suggest a protection element, the '445 Patent also fails to teach the additional limitation that the protection element is plate-shaped. For this additional reason, claim 69 is allowable.

**Rejection of Claim 66 under 35 U.S.C. § 103(a)**

Claim 66 was rejected as being unpatentable over the '445 Patent in view of the '868 Patent. Claim 66 ultimately depends from allowable claim 62 and is therefore allowable at least by virtue of its dependency on allowable claim 62.

**PETITION FOR THREE-MONTH TIME EXTENSION**

Under 37 C.F.R. § 1.136(a) (1998), Applicants hereby petition that the period for responding to the Office Action mailed on February 25, 2002 be extended for three months, up to and including August 25, 2002. Enclosed is a check to cover the appropriate fee for this extension under 37 C.F.R. § 1.17. The undersigned attorney believes no further fees are due; however, the Commissioner is authorized to debit deposit account no. 11-0855 to the extent necessary if fees are due.

**CONCLUSION**

The foregoing is submitted as a full and complete response to the Office Action mailed February 25, 2002. Applicants respectfully submit that claims 58 and 60-75 are in condition for immediate allowance, and request early notification to that effect. If any issues remain to be resolved, the Examiner is respectfully requested to contact Kris Johnson at (404) 815-6389 or Geoffrey Gavin at (404) 815-6046 before issuing a final Office Action.

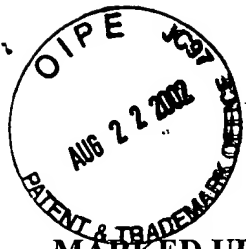
Please charge any additional fees or credit any overpayment to Deposit Order Account No. 11-0855.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Geoffrey K. Gavin".

Geoffrey K. Gavin  
Registration No. 47,591  
ATTORNEY FOR ASSIGNEE

KILPATRICK STOCKTON LLP  
Suite 2800  
1100 Peachtree Street  
Atlanta, Georgia 30309-4530  
(404) 815-6500



**MARKED UP VERSION TO SHOW CHANGES MADE**

In accordance with 37 CFR § 1.121(c), the following versions of the claims as rewritten by the foregoing amendment show all the changes made relative to the previous versions of the claims.

Claims 58, 60-62, 67, 68, 70, and 73-75

58. (Twice Amended) A method for processing a slaughtered bird comprising breaking at least one tissue connection between the belly skin and the viscera of the bird prior to evisceration of the carcass of the bird, wherein the at least one tissue connection is broken at least partially by introducing separating means into the carcass of the bird through a hole in the skin and moving the separating means within the carcass in a plane substantially parallel to the plane of the belly skin.

60. (Twice Amended) The method of claim 58 [59], wherein the separating means is [are] rotated within the carcass.

61. (Amended) The method of claim 58 [59], wherein the separating means is [are] moved in a scraping manner between the belly skin and the viscera.

62. (Twice Amended) A device for processing a slaughtered bird prior to evisceration of the bird comprising separating means for breaking tissue connections between the belly skin and the viscera, wherein the separating means is adapted to move in a plane substantially parallel to the plane of the belly skin.

67. (Twice Amended) A method for inserting a substantially elongated element with a free end under the skin of the belly of a slaughtered bird which is provided with a hole in the skin, [such as an opening obtained by cutting out the vent,] comprising:



inserting a protection element through the hole and into the bird, wherein the protection element comprises a stop face adapted for pushing away the viscera from the hole;  
positioning the free end of the elongated element in the hole near the stop face;  
and  
rotating the elongated element to insert the free end of the elongated element under the skin.

68. (Twice Amended) A device for processing a slaughtered bird, comprising:  
a substantially elongated element having a free end for insertion under the skin of the belly of the bird;  
a protection element for insertion into the bird through a hole in the skin, wherein the element comprises a stop face adapted for pushing away the viscera from the hole;  
moving means for positioning the free end of the elongated element in the hole near the stop face and for rotating the elongated element for inserting the free end of the elongated element under the skin.

70. (Amended) The method of claim 58 [59], wherein the hole in the skin is an opening obtained by cutting out the vent.

73. (New) The method of claim 58, wherein breaking at least one tissue connection between the belly skin and the viscera comprises breaking at least one tissue connection between the stomach of the bird and belly fat situated on the inside of the belly skin.

74. (New) The device of claim 62, wherein the separating means is adapted to break at least one tissue connection between the stomach of the bird and belly fat situated on the inside of the belly skin.

75. (New) The method of claim 67, wherein the hole in the skin is an opening obtained by cutting out the vent.